



File Code: 1570

Date: February 13, 2012

Edward B. Zukoski
Earthjustice
1400 Glenarm Place #300
Denver, CO 80202

Dear Mr. Zukoski:

On December 30, 2011, you filed a Notice of Appeal (NOA) on behalf of Wildearth Guardians, Defenders of Wildlife, High Country Citizen's Alliance, Rocky Mountain Wild and the Sierra Club pursuant to 36 CFR 215. You appealed the November 8, 2011 decision notice signed by Grand Mesa-Uncompahgre-Gunnison Forest Supervisor Charles Richmond, consenting to the BLM proposal modifying existing Federal Coal Lease COC-1362 by adding 800 acres and modifying existing Federal Coal Lease COC-67232 by adding 922 acres, both according to the Federal Coal Leasing Amendments Act of 1976, and prescribing stipulations needed for the protection of non-mineral resources.

Pursuant to 36 CFR 215.17 an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.18 - formal review and disposition procedures. I have reviewed the appeal record, including your written NOA, the Decision Notice, Environmental Assessment (EA), and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

Appellants requested the following relief:

1. The Regional Forester must withdraw the Decision Notice and Finding of No Significant Impact providing the Forest Service's consent to the Federal Coal Lease Modifications COC-1362 & COC-67232.
2. If the Forest Service intends to consent to Federal Coal Lease Modifications COC-1362 & COC-67232 it must prepare NEPA documentation (including opportunities for public involvement and appeal) that complies fully with NEPA, the Clean Air Act, the Administrative Procedure Act, the Endangered Species Act, the National Forest Management Act, SMCRA, and the Forest Plan, and that addresses all of the issues raised in this appeal.
3. Any decision on this appeal must include a full response to each issue raised in the Statement of Reasons.



4. The Regional Forester must direct Forest Supervisor Charles S. Richmond to refrain from committing any further agency resources to implement or otherwise consent to Federal Coal Lease Modifications COC-1362 & COC-67232 unless and until the Forest Service complies with all applicable law, as described in paragraphs 1-3, above.

The Appeal Reviewing Officer, Glenn Casamassa, has found that there is insufficient evidence to show how the decision has adequately met NEPA requirements, and he recommended that the Decision Notice be reversed in whole.

APPEAL DECISION

I agree with the ARO's analysis as presented in the enclosed letter. I am reversing the Decision Notice in whole. I am directing that the Decision Notice and FONSI providing the Forest Service's consent to the lease modification be withdrawn. Since this makes other requests moot, I am denying any additional relief requested by the appellants.

My decision constitutes the final administrative determination of the Department of Agriculture (36 CFR 215.18(c)).

Sincerely,

/s/ Brian Ferebee

BRIAN FEREBEE

Deputy Regional Forester,
Resources

cc: Mailroom R2 Grand Mesa Uncompahgre Gunnison